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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,280	12/09/2003	John S. Frazee		4990

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EXAMINER

HOGAN, JAMES SEAN

ART UNIT PAPER NUMBER

3752

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/731,280	Applicant(s) FRAZEE, JOHN S.	
	Examiner James S. Hogan	Art Unit 3752	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 2,4,5,7-9,12-14 and 18 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3,11,15-17 and 610 is/are rejected.
- 7) ☐ Claim(s) 16 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/09/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claims 16 and 17 are objected to because of the following informalities: The referenced claims are listed as depending on non-elected claim 14. Appropriate correction is required. However, the subject matter of the aforementioned claims allude to a dependency of claim 15, and will be treated as so.

Claim Rejections - 35 USC § 102

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 and 3 rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,962,733 to Parry.

Regarding claim 1, Parry discloses a showerhead device, having an air pathway (35) for being positioned along a water pathway (13) upstream of spray holes (not numbered or shown, but implied) in a showerhead (15), wherein when water is turned off, air is drawn through the air pathway the said showerhead above the spray holes to enable said showerhead to drain more completely. As for claim 3, the air pathway is positioned in an add-on tubing (13') for connecting between the showerhead and a water pipe.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6, 10, 11, and 15-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 3,962,733 to Parry in view of U.S. Patent No. 2,347,988 to Burke.

The rejection of claim 1 above serves as the basis for the following. Parry ('733) does not teach the airpath comprised of an automatic valve. Burke teaches an automatic valve which is automatically closed when fluid flows through it, and automatically opened when fluid is not flowing. As per claims 10 and 11, the valve of Burke ('988) comprises a hole (28) and a resilient rubber "membrane" in the form of a tapered tubular sleeve (40) that is moved against the hole when fluid flows through the valve, and automatically retracted when fluid is not flowing thus admitting air through the hole. As per claim 15, as in a combination, Parry ('733) discloses a showerhead device, having an air pathway (35) for being positioned along a water pathway (13) upstream of spray holes (not numbered or shown, but implied) in a showerhead (15), wherein when water is turned off, air is drawn through the air pathway the said showerhead above the spray holes to enable said showerhead to drain more completely. Parry also teaches the air pathway is positioned in a segment of add-on tubing (13') for connecting between the showerhead and a water pipe. Parry ('733) does not teach the airpath comprised of an automatic valve. Burke teaches an automatic valve which is automatically closed when fluid flows through it, and automatically opened when fluid is not flowing. As per claims 16 and 17, the valve of Burke ('988) comprises a hole (28) and a resilient rubber "membrane" in the form of a tapered tubular sleeve (40) that is

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moved against the hole when fluid flows through the valve, and automatically retracted when fluid is not flowing thus admitting air through the hole. In light of all of the previous information, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the add-on tubing as part of the showerhead device of Parry ('733) with the automatic one-way valve of Burke ('988) in order to provide a showerhead device that drains automatically after use so that microbiological particles cannot grow during the device's stagnancy and clog part of the showerhead device.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure is as follows:

U.S. Patent No. 5,297,735 to Heimann et al., disclosing a hand shower

U.S. Patent No. 6,711,758 to Terek et al., disclosing an emergency shower

U.S. Patent No. 2,629,393 to Langdon, disclosing a check-and-vent valve

U.S. Patent No. 2,646,059 to Wittner et al., disclosing a drain valve

German Patent No. DE 3934216 A1, disclosing a vented faucet


Any inquiry concerning this communication or earlier communications from the examiner should be directed to James S. Hogan whose telephone number is (571) 272-4902. The examiner can normally be reached on Mon-Fri, 7:00a-4:00p EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on (571) 272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JSH
12/01/2005



David A. Scherbel
Supervisory Patent Examiner
Group 3700